IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION.

NOTICE OF MOTION No. 1951/2003.
IN
INCOME TAX APPEAL (LODGING)No.645/2003.

The Commissioner of Income-Tax,
Mumbai City-III, Mumbai. ..Appellant.

Vs.

Shri Navin R. Kamani, Mumbai ..Respondent.

Mr Ashok Kotangale with Mr P. S. Sahadevan
i/b T.C. Kaushik for the Appellant.

Ms Bina Pillai i/b D.M. Harish & Co. for the
Respondent.

CORAM:DR.S. RADHAKRISHNAN
AND V.C. DAGA,JJ.
DATED:26TH MARCH, 2007.

P.C.:-

1. Heard the learned counsel for the appellant and the learned counsel for respondent. The above notice of motion is taken out by the appellant seeking condonation of 241 days delay. Affidavit in support of the Notice of Motion merely mentions that the Department is undergoing major restructuring. In fact, in all the Notice of Motions taken out by the Department, this is the only reason disclosed by the Department and the affidavits are stereotyped and irrespective of the fact that whether the case is of the year 2001 or 2007.

2. In the above matter, the appellant was granted not less than five adjournments of two to three weeks to enable them to file a better affidavit, right from 12th February, 2004 and in spite of the same there is no better affidavit justifying condonation of delay.

3. Today, the learned counsel for the respondent states that the respondent does not have any record with regard to the above matter and states that they are unable to file any affidavit with regard to the above.

4. In view of the aforesaid fact, We dismiss this Notice of Motion as there is no proper affidavit comingforth justifying condonation of delay.

(V.C.DAGA,J) **(DR.S. RADHAKRISHNAN,J.)**